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Gun owners sue over 'assault weapon' ban

Ask same court that torpedoed state's magazine prohibition to act



By WND Staff

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A federal court in California that already has ruled the state's "large-capacity magazine" ban violates the Second Amendment is being asked to review the state's prohibition on so-called "assault weapons."

A lawsuit has been filed in U.S. District Court for the Southern District of California on behalf of James Miller, Patrick Russ, Ryan Peterson and the San Diego County Gun Owners PAC.

“This district court already ruled the state’s prohibition on the possession of large-capacity magazines is unconstitutional, and enjoined and prohibited enforcement of those provisions of the code that would have prohibited their possession,” the complaint explains.

“Both implicit and explicit in this district court’s ruling was the ability to use such magazines if otherwise lawfully possessed” in legally possessed firearms.

“Thus,” it goes on, “the prohibitions that attach to the possession and use of a certain legislatively invented class of otherwise commonly used, constitutionally protected” firearms “are likewise invalid and should be stricken.”

The case argues that the state cannot ban weapons protected under the Second Amendment just by calling them “legislative” names such as “assault weapons.”

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property,” explained attorney Scott Brown. “The state of California’s ban on these firearms will fail constitutional scrutiny for the same reasons that its ban on firearm magazines did.”

“The government cannot ban the constitutionally-protected firearms at issue in this case,” said attorney George M. Lee. “We look forward to proving that the state’s statutes, policies, and practices at issue in this case are both unconstitutional and irrational.”

The case is supported by the Second Amendment Foundation, the California Gun Rights Foundation, the Firearms Policy Coalition and the Firearms Policy Foundation.

The complaint contends the state is violating the Constitution by “prohibiting law-abiding citizens, including these individual plaintiffs, from obtaining, acquiring, possessing, manufacturing or transferring firearms in common use for lawful purposes such as self-defense inside and outside the home, competition, sport, and hunting.”

The complaint notes the state created “a certain legislatively invented class” of weapons to ban.

The plaintiffs have been proven trustworthy because their local sheriffs have approved them for concealed carry licenses, the complaint notes. Yet even they

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unacceptable by lawmakers.

The lawsuit is against Xavier Becerra, the state's attorney general.

The filing argues the Second Amendment puts "above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home."

The U.S. Supreme Court also has determined that ordinary weapons of today should be permitted.

"Some have made the argument, bordering on frivolous, that only those arms in existence in the 18th century are protected by the Second Amendment."

The firearms the plaintiffs want are "exactly the type of instruments that are afforded protection under the Second Amendment."

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